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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,874	03/26/2001	Noel Roger Wakelin	1029.65160	8699
24978	7590	01/11/2006	EXAMINER	
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			LOPEZ, MICHELLE	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/744,874

Applicant(s)

WAKELIN ET AL.

Examiner

Michelle Lopez

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on October 14, 2005.
2. New claim 14 has been added.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the trigger" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Couchee (5,546,749).

Couchee discloses a shaft 12 adapted so as to be attachable at one end thereof to a hand tool at the vicinity of 13; a hand grip 16 as shown in Fig. 2 located at the other end of the shaft; a trigger activator 161 positioned near the hand grip 16 capable of being operatively connected to a trigger associated with the hand tool; the hand grip is angled with respect to the longitudinal axis of the shaft to allow the handle to be easily gripped by a person's hand; wherein the hand grip includes a second hand grip 18 positioned on the shaft at a point intermediate to the two ends of the shaft, wherein the second hand grip extends radially from the shaft and is positioned about and along the longitudinal axis of the shaft (see col. 3; lines 7-10).

With respect to claim 3, Couchee discloses wherein the hand tool is a nail gun as shown in col. 2; lines 18-20.

With respect to claim 5, Couchee discloses wherein the shaft includes a clamp at one end thereof 13 capable of holding a nail gun.

With respect to claim 14, Couchee discloses wherein said second hand grip includes an integrally formed handle and a collar portion as shown in Fig. 1.

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5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Causey et al. (4,207,675).

Causey et al. discloses a shaft 10 adapted so as to be attachable at one end thereof to a hand tool; a hand grip 70 located at the other end of the shaft; a trigger activator 78 positioned near the hand grip 70 capable of being operatively connected to a trigger associated with the hand tool; the hand grip is angled at 73 with respect to the longitudinal axis of the shaft to allow the handle to be easily gripped by a person's hand; wherein the hand grip includes a second hand grip 80 positioned on the shaft at a point intermediate to the two ends of the shaft, wherein the second hand grip extends radially from the shaft and is positioned about and along the longitudinal axis of the shaft (see col. 6; lines 32-38).

With respect to claim 2, Causey discloses wherein the hand tool is motorized.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fox (5,598,892) in view of Couchee (5,546,749).

Claim 1 is being interpreted as defining the structure of the second hand grip in terms of how it is intended to be used in an elongated shaft.

The Fox reference discloses a shaft 22 adapted so as to be attachable at one end thereof to a hand tool; a hand grip 60 located at the other end of the shaft; a trigger activator 62 positioned near the hand grip capable of being operatively connected to a trigger 20 associated with the hand tool; the hand grip 60 is angled with respect to the longitudinal axis of the shaft to allow the handle to be easily gripped by a person's hand; a second hand grip 52 positioned on the shaft at a point intermediate to the two ends of the shaft, wherein the second hand grip extends radially from the shaft and about the longitudinal axis of the shaft.

Applicant's attention is invited to the Couchee's reference (5,546,749) teaching the use of ^{second hand grip 18} a that is movable to various positions along the handle shaft 12 to accommodate different users.

It would have been obvious to one skilled in the art to make the second handle of Fox movable along the handle shaft of Fox as shown by Couchee to accommodate different users.

With respect to claim 2, Fox discloses wherein the hand tool is motorized as shown in col. 1; lines 4-6.

With respect to claim 3, Fox discloses wherein the hand tool is a nail gun tool, i.e. fastener insertion tool.

With respect to claim 4, Fox as modified by Couchee discloses the invention substantially as claimed, but does not specifically disclose that the length of the shaft is substantially 50cm to 70cm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to find the optimum range for a shaft since it has been held that where the general conditions of a claim are disclosed in the prior art discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to claim 5, Fox discloses wherein the shaft includes a clamp 40 at one end thereof capable of holding a nail gun.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Couchee (5,546,749).

Couchee discloses the invention substantially as claimed, but does not specifically disclose that the length of the shaft is substantially 50cm to 70cm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to find the optimum range for a shaft since it has been held that where the general conditions of a claim are disclosed in the prior art discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

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8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Causey et al. (4,207,675).

Causey discloses the invention as claimed, but does not specifically disclose that the length of the shaft is substantially 50cm to 70cm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to find the optimum range for a shaft since it has been held that where the general conditions of a claim are disclosed in the prior art discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Response to Amendment

9. Applicant's arguments have been considered but are deemed moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Conclusion

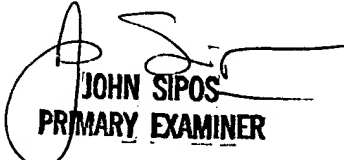
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Driggers (4,825,548) is cited to show related inventions.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML


JOHN SIPOS
PRIMARY EXAMINER